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AUTHOR	Hill, Malcolm; Lockyer, Andrew; Morton, Peter; Batchelor, Susan; Scott, Jane
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ABSTRACT

Safeguarders are persons with a relevant professional background who may be appointed by child welfare authorities when required to safeguard the interests of the child in the proceedings. Safeguarders offer support and advice, and provide written reports for children's hearings and sometimes for court cases. This study evaluated the use and operation of safeguarders in Scotland. Methods of data collection included national surveys of safeguarders and others, individual interviews and groups discussion with representatives of safeguarders and other relevant groups, interviews with children and parents following observation of hearings with a safeguarder present, and a comparative case record study covering 67 safeguarder cases and 48 non-safeguarder cases. Among the main findings are the following: The great majority of participants were positive about safeguarders' involvement in hearings. They also valued highly the work carried out and the reports written by safeguarders. In most areas, those responsible for the administration of safeguarders and of children's hearings regarded the supply of safeguarders as adequate. Two-thirds of safeguarders brought immediately relevant expertise to the role from their current or previous work, but many wanted more substantial training and detailed guidance. Four-fifths of safeguarders thought that remuneration levels were too low. Safeguarders received little support in their work and scant feedback on their performance. Monitoring arrangements were limited and local authority panel administrators usually had little knowledge of safeguarders' performance. Children and parents had a partial understanding of the safeguarder's role. (KB)

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Malcolm Hill, Andrew Lockyer, Peter Morton, Susan Batchelor, and Jane Scott

Scottish Executive Education Department

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Scotland's Children

Children (Scotland) Act 1995

Research Findings No. 1

The Role of Safeguarders in Scotland

Malcolm Hill, Andrew Lockyer, Peter Morton, Susan Batchelor and Jane Scott
Centre for the Child & Society and Department of Politics
University of Glasgow

This study was commissioned in 2000 to describe and evaluate the use and operation of safeguarders in Scotland. The research team obtained information and views from safeguarders, panel members, sheriffs, reporters, safeguarder administrators, children and young people, parents and social workers.

Main Findings

- The great majority of all parties taking part in the study were positive about having safeguarders involved in hearings cases. In general they also valued highly the work carried out and the reports written by safeguarders.
- In most areas, those responsible for the administration of safeguarders and of children's hearings regarded the supply of safeguarders as adequate.
- Two thirds of safeguarders brought immediately relevant expertise to the role from their current or previous work, but many wanted more substantial training and detailed guidance.
- Four fifths of safeguarders who contributed to the study thought that levels of remuneration for safeguarders were too low and this view was supported by the comments of other respondents.
- Opposing views were expressed by both sheriffs and reporters about whether safeguarders or curators ad litem should be appointed in court cases, and in what circumstances.
- Safeguarders received little support in their work and scant feedback on their performance. Monitoring arrangements were limited and local authority panel administrators usually had little knowledge of safeguarders' performance.
- Children and parents had a partial understanding of the safeguarder's role.
- Children and parents usually felt that their viewpoints were carefully listened to by safeguarders during preparations for the hearings. A minority of parents and young people were dissatisfied with what safeguarders said at the hearing itself.

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Introduction

Safeguarders are persons (normally with a relevant professional background in law, social work or teaching) who may be appointed by children's hearings or sheriffs when this is required to safeguard the interests of the child in the proceedings. Their role is to provide support and advice. Safeguarders always provide written reports for children's hearings, reflecting the child's best interests. They may also do so for court cases. Safeguarders normally attend and contribute to children's hearings.

All 32 local authorities in Scotland have a duty to recruit and maintain a panel of safeguarders, so that a sufficient number is available to meet the need in their area.

Research design

This research was commissioned by the Scottish Executive and carried out between March and September 2000. The broad aim was to describe and evaluate the current use and operation of safeguarders in Scotland. Much of the information for the study was collected on a national basis. The main methods included: national questionnaire surveys of all safeguarders, administrators of every local authority safeguarder panel, all children's panel chairs, a sample of panel members in each area, selected sheriffs principal, all sheriffs and sheriff clerks in every court area; individual interviews and group discussions to explore issues in depth with representatives of the groups who participated in the surveys, plus reporters and social workers; interviews with children and parents following observation of a hearing with a safeguarder present; and a comparative case record study, for which information was abstracted from reporters' minutes of the hearings, covering 67 safeguarder cases and 48 non-safeguarder cases.

In four months of fieldwork, 112 individual interviews were undertaken and 13 group discussions held. 892 questionnaires were distributed, of which 557 were completed and returned.

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The profile of safeguarder panels and safeguarders

The total number of safeguarders in Scotland in 2000 was estimated to be about 200. Some worked for more than one local authority, so there were about 300 safeguarder positions across Scotland. The majority of safeguarders had undertaken this role for at least three years. Nearly all had a relevant professional background: two fifths in law, one quarter in social work and nearly one fifth as schoolteachers. Across Scotland about 60% of safeguarders were women.

The size of the local authority safeguarder panels ranged from 4 to 21, but most comprised 9-12 individuals. In the majority of local authorities the number of safeguarders on the panel was fairly stable and thought to be adequate by the safeguarder panel administrators and the children's panel chairs. In about one third of local authorities, though, administrators believed that there was a shortage. The gender distribution varied considerably from one place to another. Several authorities had only one or two males or females to choose from, when a safeguarder was required for a case. All save three panel administrators reported that safeguarding work took up fewer than 4 hours of their time each month.

Most safeguarders handled between 4 and 12 cases per year, but some dealt with more than two per month. For only 12% of safeguarders in the sample was safeguarding their main occupation.

Recruitment and remuneration

Responsibility for safeguarder panels was normally located by local authorities in a legal, administration or corporate services department. The study revealed a wide diversity of arrangements in virtually all aspects of the management of the service.

Recruitment practices were highly varied. One fifth of authorities used advertisements in their recruitment but administrators in different authorities held opposing views about the appropriateness of advertising for safeguarders. Half the safeguarders in

the questionnaire survey said they had been formally nominated by key parties in the children's hearings system and an additional number had put themselves forward at the behest of a person connected with the hearings. Some respondents, especially among safeguarders themselves, criticised the application and selection system for its haphazard nature, lack of openness and potential for bias.

Safeguarders normally worked from home or from the office where they were employed in their main occupational capacity. Fees were paid at a broadly standard rate across Scotland determined by COSLA. Four fifths of the safeguarders surveyed thought that the rate of pay was too low and other respondents volunteered this view, too. Certain local authority administrators, though, expressed concerns about the financial implications of increasing remuneration.

Induction, training, support and monitoring

The information, guidance and training provided to safeguarders were variable and limited in scope. Nearly all safeguarders themselves, administrators and children's panel members believed that safeguarders should have access to more extensive and standardised training, dedicated to their particular needs. Even though a combination of previous relevant expertise and lengthy service as safeguarders meant that many were well equipped to carry out their role, both they and others in the hearings system believed they needed access to more dedicated training.

Safeguarders received little if any practical support and feedback to help improve their work, while arrangements for monitoring and accountability were minimal. It was apparent from interviews and discussions that reporters and panel members formed judgements about the quality of individual safeguarders' reports and reliability, but neither safeguarders nor administrators were generally aware of these opinions. Formal complaints about safeguarders were rare.

The wide variations among local authorities with respect to recruitment, training and case allocation led a number of safeguarders, local authority administrators and others to believe that greater standardisation was desirable. Some respondents were in favour of a nationally organised service.

Appointments of safeguarders to cases at children's hearings

According to the available official statistics, the number of cases to which safeguarders were appointed rose substantially during the 1990s, but had fallen somewhat after 1998. However, this decrease was due to the declining number of all children's hearings cases and the proportion of cases with a safeguarder continued to grow (from less than 1% to more than 9% in 1999/2000). This occurred against the background of an important legislative change introduced by the Children (Scotland) Act 1995, which came into effect in 1997, allowing children's hearings the discretion to appoint safeguarders in a wider range of circumstances than before. At the time of the study, the evidence published by the Scottish Children's Reporter Administration was that safeguarders were appointed in just under one tenth of cases. However, discrepancies were apparent between official figures and data provided by reporters and sheriff clerks for the study. It was therefore concluded that the officially collated information did not provide a reliable, comprehensive record of all safeguarder appointments.

Safeguarders were appointed by children's hearings less often in offence than non-offence cases, but the analysis of hearing minutes showed that in other respects (such as types of hearing and grounds of referral) safeguarder and non-safeguarder cases were quite similar. Just over half the children involved in safeguarder cases were teenagers.

According to panel members, the most frequent reason for appointing safeguarders involved conflicting views between young people and their parents, or between either and the social worker. Other common factors influencing panel members to appoint a safeguarder were difficulties in obtaining the child's view or gaps in information. The reasons stated in the minutes for appointing a safeguarder were sometimes vague. The minutes quite often did not specify a remit for the safeguarder (the remit was absent in 40% of the case minutes examined). Three

quarters of safeguarders in the study indicated that they were sometimes unclear what remit the hearing expected them to have.

Normally reporters allocated the particular safeguarder to undertake the case, occasionally guided by the panel. Rota systems for allocating safeguarders existed in some areas. Elsewhere selection of the safeguarder was affected by availability, an effort to match to the needs of the child, and/or knowledge of individual safeguarders' characteristics and qualities. Some respondents, including reporters themselves, questioned whether it was right for reporters to choose the safeguarder.

Court appointments

Information from sheriff clerks was found to be patchy concerning the number of court appointments of safeguarders.

Unlike children's hearings, courts may appoint either a curator ad litem (curator) or a safeguarder to safeguard a child's interests. Curators are usually legally qualified and are appointed under common law to act on behalf of a child to ensure that the case is conducted in his or her interests. The majority of sheriffs who responded to our survey said they appointed safeguarders in children's hearings cases, but other sheriffs only appointed curators and for this reason many of these did not complete the questionnaire about safeguarders. This difference reflected contrasting interpretations of the law, varying views on the need for a lawyer to safeguard children's interests and the fact that curators were paid more. The preference to appoint a curator not a safeguarder was much stronger in one sheriffdom than elsewhere.

Most sheriffs thought it appropriate to appoint a safeguarder in a proof hearing, but a number of reporters disagreed, since they saw the judgement as factual and not based on a consideration of the child's interests. Sheriffs said they typically appointed safeguarders in the following circumstances: when the child was too young to express a view, where an older child needed assistance to express a view or if there was a conflict of interest between parties. The majority of sheriffs who took part in the study (70%) thought that the appointment of a safeguarder did not usually lead to delays and might even expedite matters.

Two thirds of sheriffs thought it was a matter for safeguarders' discretion whether or not they formally entered the court proceedings, by taking an active part in the proof, but some thought they should always do so. Sheriffs were divided in opinion for or against safeguarders offering advice to children about accepting or rejecting the grounds of referral.

Safeguarders' assessments and reports

From accounts provided by panel members, reporters and social workers as well as safeguarders themselves, several key stages and processes were identified as desirable in safeguarders' casework. These comprise:

- carefully reading the case papers
- meeting the child and parents face to face, usually separately
- obtaining information from other relevant parties, with an open mind
- looking behind surface accounts and checking facts
- identifying the child's best interests and, separately, the wishes of children or parents
- explaining to family members the planned recommendations and, if applicable, noting how and why this differed from what they wanted
- writing and submitting a comprehensive but not excessively lengthy report
- attending the hearing.

The time spent on each case varied greatly, but in most instances amounted to the equivalent of one to two days' work spread over a few weeks. Some safeguarders spent extra time on explaining or mediating.

Panel member questionnaire responses and hearing minutes indicated that safeguarder reports were normally submitted within recommended time-scales. Panel members and sheriffs were generally well satisfied with the quality of reports. Opinion among panel members, safeguarders and reporters was divided on whether reports should follow a more standard format.

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Experiences and views of children and parents

Most of the 25 young people interviewed and their parents had a broad but incomplete understanding of the safeguarder's role and remit in children's hearings cases. While they recognised that the safeguarder's function was to guide the hearing, some wanted or expected the safeguarder to side with their opinion about what should happen. Most felt that their safeguarder listened carefully to their views. The majority were positive about the safeguarder's contribution to the case. However, a small number expressed a sense of grievance, when they had formed the impression that the safeguarder supported their viewpoint, only to find that the safeguarder adopted an opposing view at the hearing.

Appraisals of safeguarder performance

Panel members, sheriffs, reporters and social workers were virtually all in favour of the legal provision for safeguarders, whose independent perspective was much valued. Safeguarders who participated in the study were generally satisfied with their role. The main changes they wanted to see were adequate fees, more training and better co-operation from other parties in some instances.

The quality of work done by the great majority of individual safeguarders was seen by other parties as very good. However, a small minority were perceived to perform poorly. Among the reasons why panel members and reporters believed a few safeguarders fell short of the usually high standard were: spending little time on the case, not explaining their recommendations to parents and children in advance, providing a brief or superficial report and non-attendance at the hearing.

Conclusions and implications

The role carried out by the great majority of safeguarders was generally recognised to be a valuable one by all other key parties in the children's hearings system. The study identified little that needed changing in the actual work done by most safeguarders, though the shortcomings of a small minority merit attention.

The study indicated that it may be desirable to consider certain changes and developments in organising the service. In particular:

- Many respondents advocated that new Government Regulations and Guidance be introduced to ensure greater formality, consistency and openness with respect to recruitment, induction, training and monitoring. The arrangements varied greatly among authorities and many safeguarders themselves criticised the lack of consistency.

- Nearly everyone who commented on remuneration said it needed to be increased to be commensurate with the time taken up and the complexity of the task. Increased fees might also assist the current confusion about whether sheriffs should appoint a (higher-paid) curator instead. Local authority administrators' budgetary concerns indicated that attention is required to how higher fees should be funded.

- The brevity of current safeguarder training and the views of most participants, including safeguarders themselves, highlighted the need for a dedicated core training programme, universally available for safeguarders.

- Several aspects of the safeguarder's role in court require clarification, possibly by amendments to the law, in view of the divergent opinions among sheriffs and reporters about, for instance, the option for a court to appoint a curator in a children's hearing case, or the nature of the safeguarder's role in a proof hearing.

- The problems the research team had in obtaining local or national figures for safeguarder

appointments and the questions raised in the report about the accuracy of official figures suggest that it would be helpful if standard information about both hearings and court appointments were recorded and collated nationally.

- The systems for allocating safeguarders to a case ought to be reviewed so they are seen to be open and fair, since our evidence indicated that local authority staff and reporters, who could be viewed as having an interest in the case, often influenced or made the choice of individual. Some respondents thought this might be unfair.

- Since some children and parents had only a partial understanding of safeguarder's roles, it would be useful to have a simply worded leaflet about safeguarders for children and their families.

- It would be helpful if it became standard practice for safeguarders to explain their recommendations to children and parents in advance of the hearing, as some already do.

In making any changes to the organisational arrangements for safeguarders, it would be important not to compromise either their independence or the generally high quality of most safeguarders' contribution to the children's hearings system and hence children's well-being, since these aspects of their work were usually well regarded by panel members, sheriffs and reporters.

The Children (Scotland) Act 1995 Research Programme aims to monitor the implementation of the Act and to evaluate its operation and impact. Research within this programme is commissioned by the Justice and Education Departments of the Scottish Executive. Research Findings are published by the Central Research Unit (for the Justice Department) and the Education and Young People Research Unit (for the Education Department).

If you want further copies of this Research Findings or have any enquiries about the work of the EYPRU please contact us at:

Education and Young People Research Unit (Tel: 0131 244 0634)
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The Role of Safeguarders in Scotland, the report that is summarised in this Research Findings, is available on the Education and Young People Research Unit website.

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